THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION No : 17552 of 2005

Dated: 09-08-2005

Between:

Gnanam Masthanaiah, S/o. Subbaiah,

Aged 55 years, R/o. Aravapalem Village,

Chettamur Mandal, Nellore.

Petitioner…

AND

The Mandal Revenue Officer,

Chittanur Mandal, Nellore and another.

Respondents…

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ORDER:

The present writ petition is filed seeking direction to the 1st respondent-Mandal Revenue Officer, to pass orders in accordance with Section 145 of Code of Criminal Procedure 1973 (for short 'Cr.P.C.') in relation to the lands situated in Survey Nos.1175/3-B situated at Aravapalem Village, Chittamur Mandal, Nellore District.

The main grievance of the petitioner in this writ petition is that the 1st respondent has not passed the orders in accordance with Section 145 Cr.P.C.

and instead of deciding as to who is in actual possession of the land in question, directed to approach the Civil Court, which is contrary to Section 145 Cr.P.C. According to the petitioner, as per Section 145 Cr.P.C., the 1st respondent has to enquire who is in possession of the land in question two months prior to the date of dispute and put the actual possessor in possession and provide protection.

As seen from the order impugned, there are riots in respect of the land in question among the caste people and the suit in O.S. No.8 of 1989 is also pending on the file of the court of the Senior Civil Judge, Guduru, Nellore District, and also for want of documentary evidence, the rights over the land in question could not be finalized. Therefore, considering the circumstances prevailing in the village, which may cause serious law and order problem, passed the impugned order to maintain peace and tranquility.

That apart, if the petitioner feels that the order impugned was not passed in consonance with the procedure contemplated under Section 145 Cr.P.C., he is at liberty to file appeal before the appellate authority or initiate proceedings under Section 482 Cr.P.C. to quash the impugned order.
The petitioner cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

The Writ Petition is totally misconceived and the same shall stand dismissed. There shall be no order as to costs.

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ELIPE DHARMA RAO, J

Dated: 09-08-2005

LSK